

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

MAZEN H. KHAYATA, M.D.

Holder of License No. 20382
For the Practice of Allopathic Medicine
In the State of Arizona

Case No. MD-07-0018A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Mazan H. Khayata, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement of any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any waiver,

1 express or implied, of the Board's statutory authority or jurisdiction regarding any other
2 pending or future investigation, action or proceeding. The acceptance of this Consent
3 Agreement does not preclude any other agency, subdivision or officer of this State from
4 instituting other civil or criminal proceedings with respect to the conduct that is the subject
5 of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this
7 matter and any subsequent related administrative proceedings or civil litigation involving
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended
9 or made for any other use, such as in the context of another state or federal government
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
11 any other state or federal court.

12 7. Upon signing this agreement, and returning this document (or a copy thereof) to
13 the Board's Executive Director, Respondent may not revoke the acceptance of the
14 Consent Agreement. Respondent may not make any modifications to the document. Any
15 modifications to this original document are ineffective and void unless mutually approved
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that will
21 be publicly disseminated as a formal action of the Board and will be reported to the
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force
25 and effect.

1 11. Any violation of this Consent Agreement constitutes unprofessional conduct
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,
3 probation, consent agreement or stipulation issued or entered into by the board or its
4 executive director under this chapter") and 32-1451.

5
6
7 M. Khayata
8 MAZEN H. KHAYATA, M.D.

DATED: 9/1/07

FINDINGS OF FACT

1
2 1. The Board is the duly constituted authority for the regulation and control of
3 the practice of allopathic medicine in the State of Arizona.

4 2. Respondent is the holder of license number 20382 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-07-0018A after receiving notification of
7 a malpractice settlement involving Respondent's care and treatment of a forty-five year-old
8 female patient ("KF").

9 4. On September 5, 2002, KF presented to Respondent, a neurosurgeon, for a
10 consultation after experiencing a loss of consciousness and being diagnosed in the
11 emergency department (ED) with a 10 mm extraaxial calcification in the left frontal region.
12 Respondent recommended further evaluation with magnetic resonance imaging ("MRI")
13 and magnetic resonance venogram ("MRV"). The brain MRI and MRV, completed on
14 September 16, 2002, showed the same tumor meningioma without involvement of superior
15 sagittal sinus as on the computed tomography (CT) scan obtained in the ED.

16 5. Respondent ordered a magnetic resonance imaging (MRI) study that
17 confirmed the location of the tumor was adjacent to the sinus and recommended surgery
18 to remove the tumor.

19 6. On February 17, 2003, KF underwent image-guided left frontal craniotomy
20 and resection of the meningioma. Following surgery, KF suffered a seizure, a known
21 complication of craniotomy surgery. The postoperative imaging studies and pathology
22 report showed the tumor had not been resected. Respondent did not review the
23 postoperative studies, follow up with the results, or develop a new treatment plan to
24 address the retained tumor. Additionally, Respondent did not inform KF that he was
25 unsuccessful in removing the tumor.

1 7. KF continued her care with another neurologist. On July 3, 2003, KF
2 underwent another MRI while undergoing treatment with the other neurologist that
3 revealed the presence of the retained tumor.

4 8. The standard of care requires a physician to resect the original tumor
5 targeted for surgical treatment.

6 9. Respondent deviated from the standard of care because he did not resect
7 the original tumor targeted.

8 10. The standard of care requires a neurosurgeon to review the pathology report
9 and to identify that the tumor was not resected.

10 11. Respondent deviated from the standard of care because he did not review
11 the pathology report and he did not identify that the tumor was not resected.

12 12. The standard of care requires a physician to inform the patient of the
13 outcome of the surgery and to follow up with a new treatment plan when it has been noted
14 that the tumor was not adequately resected.

15 13. Respondent deviated from the standard of care because he did not inform
16 KF that the tumor was not resected and he did not follow up with a new treatment plan.

17 14. By not removing the tumor, KF is at risk for tumor growth and subsequent
18 symptoms related to the tumor growth.

19 **CONCLUSIONS OF LAW**

20 1. The Board possesses jurisdiction over the subject matter hereof and over
21 Respondent.

22 2. The conduct and circumstances described above constitute unprofessional
23 conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be
24 harmful or dangerous to the health of the patient or the public.").
25

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand for failure to remove a targeted tumor during surgery; for failure to inform the patient that he was unsuccessful in removing the tumor; for failure to review the pathology report and for failure to follow up with a new treatment plan when the tumor was not removed.

2. This Order is the final disposition of case number MD-07-0018A.

DATED AND EFFECTIVE this 12th day of October, 2007.



ARIZONA MEDICAL BOARD

By

TIMOTHY C. MILLER, J.D.
Executive Director

ORIGINAL of the foregoing filed
this 12th day of October 2007 with:

Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

EXECUTED COPY of the foregoing mailed
this 12th day of October, 2007 to:

Mazen H. Khayata, M.D.
Address of Record

Chia Cheng
Investigational Review